

House Amendment 1292

PAG LIN

1 1 Amend Senate File 413, as passed by the Senate, as
1 2 follows:
1 3 #1. Page 4, by inserting after line 22 the
1 4 following:
1 5 <Sec. _____. NEW SECTION. 91F.1 DEFINITIONS.
1 6 As used in this chapter:
1 7 1. "Commissioner" means the labor commissioner.
1 8 2. "Employee" means a natural person who is
1 9 employed in this state for wages paid on an hourly
1 10 basis by an employer.
1 11 3. "Employer" means a person, as defined in
1 12 section 4.1, who in this state employs for wages, paid
1 13 on an hourly basis, one or more natural persons. An
1 14 employer does not include a client, patient, customer,
1 15 or other person who obtains professional services from
1 16 a licensed person who provides the services on a fee
1 17 service basis or as an independent contractor, or the
1 18 state, or an agency or governmental subdivision of the
1 19 state.
1 20 4. "Unauthorized alien" means a person who is not
1 21 a citizen or legal resident and who has not been
1 22 lawfully admitted to the United States for permanent
1 23 residence or who is not authorized to work in the
1 24 United States.
1 25 Sec. _____. NEW SECTION. 91F.2 UNAUTHORIZED ALIENS
1 26 == EMPLOYER PROHIBITION.
1 27 An employer shall not knowingly employ as an
1 28 employee an unauthorized alien. For purposes of this
1 29 section, "knowingly employ as an employee an
1 30 unauthorized alien" includes cases in which an
1 31 employer actually knows a person is an unauthorized
1 32 alien and cases in which any person exercising
1 33 reasonable care should know from facts and
1 34 circumstances that a person is an unauthorized alien.
1 35 Sec. _____. NEW SECTION. 91F.3 PENALTIES.
1 36 1. An employer who violates section 91F.2 is
1 37 subject to a civil penalty of up to one hundred
1 38 thousand dollars.
1 39 2. A corporate officer of an employer who, through
1 40 repeated violation of section 91F.2, demonstrates a
1 41 pattern of employing unauthorized aliens commits a
1 42 serious misdemeanor.
1 43 3. An employer who, through repeated violation of
1 44 section 91F.2, demonstrates a pattern of employing
1 45 unauthorized aliens may be ordered to pay punitive
1 46 damages.
1 47 Sec. _____. NEW SECTION. 91F.4 DUTIES AND
1 48 AUTHORITY OF THE COMMISSIONER == ENFORCEMENT BY
1 49 ATTORNEY GENERAL.
1 50 1. The commissioner shall adopt rules to implement
2 1 and enforce this chapter.
2 2 2. In order to carry out the purposes of this
2 3 chapter, the commissioner or the commissioner's
2 4 representative, upon presenting appropriate
2 5 credentials to an employer's owner, operator, or agent
2 6 in charge, may:
2 7 a. Inspect employment records relating to the
2 8 employees of the employer.
2 9 b. Interview an employer, owner, operator, agent,
2 10 or employee, during working hours or at other
2 11 reasonable times.
2 12 3. If the commissioner has reason to believe than
2 13 an employer may be in violation of this chapter, the
2 14 commissioner shall notify the attorney general, and
2 15 provide the attorney general with any supporting
2 16 information, for prosecution of the violation by the
2 17 attorney general.
2 18 Sec. _____. NEW SECTION. 91F.5 PROHIBITIONS
2 19 RELATING TO CERTAIN ACTIONS BY EMPLOYEES == PENALTY ==
2 20 CIVIL REMEDY.
2 21 1. An employer shall not discharge an employee or
2 22 take or fail to take action regarding an employee's
2 23 appointment or proposed appointment or promotion or
2 24 proposed promotion, or regarding any advantage of an

2 25 employee as a reprisal for a failure by that employee
2 26 to inform the employer that the employee made a
2 27 disclosure of information to any law enforcement
2 28 agency if the employee reasonably believes the
2 29 information evidences a violation of section 91F.2 or
2 30 710A.2.
2 31 2. Subsection 1 does not apply if the disclosure
2 32 of the information is prohibited by statute.
2 33 3. An employer who violates subsection 1 commits a
2 34 simple misdemeanor.
2 35 4. Subsection 1 may be enforced through a civil
2 36 action.
2 37 a. An employer who violates subsection 1 is liable
2 38 to an aggrieved employee for affirmative relief,
2 39 including reinstatement, with or without back pay, or
2 40 any other equitable relief the court deems
2 41 appropriate, including attorney fees and costs.
2 42 b. If an employer commits, is committing, or
2 43 proposes to commit an act in violation of subsection
2 44 1, an injunction may be granted through an action in
2 45 district court to prohibit the person from continuing
2 46 such acts. The action for injunctive relief may be
2 47 brought by an aggrieved employee or the attorney
2 48 general.>
2 49 #2. Title page, line 1, by inserting after the
2 50 words <An Act> the following: <concerning employment
3 1 relating to the employment of unauthorized aliens
3 2 and>.
3 3 #3. By renumbering as necessary.
3 4
3 5
3 6
3 7 _____
3 7 WINDSCHITL of Harrison
3 8 SF 413.715 82
3 9 ec/gg/7464G